

THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA,  
NORTHERN DIVISION

A.G., a minor child, by and through her  
mother and next of friend, K.C.; D.A., a  
minor child, by and through her mother  
and next of friend, B.A.; A.L., a minor  
child, by and through her mother and  
next of friend, C.T.; M.K., a minor child,  
by and through her mother and next of  
friend, K.K.; and M.H., a minor child, by  
and through her mother and next of  
friend, B.H.,

Plaintiffs,

v.

AUTAUGA COUNTY BOARD OF  
EDUCATION; JOSEPH L. BUTLER; DENE  
CLEVELAND and TERRY WRIGHT,

Defendants.

CASE NO.: 2:05-CV-1090-MEF

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B.H., a minor child, by and through his  
mother and next of friend, D.S.,

Plaintiffs,

v.

AUTAUGA COUNTY BOARD OF  
EDUCATION; JOSEPH L. BUTLER; DENE  
CLEVELAND and TERRY WRIGHT,

Defendants.

CASE NO.: 2:06cv393-SRW

**MOTION TO COMPEL**

Plaintiffs', pursuant to Federal Rules of Civil Procedure, 37(a), seek an Order from the Court compelling the Defendants Autauga County Board of Education, Larry Butler and Dene Cleveland to produce a computer index indicating the date of origin of certain computer files.

As grounds for their motion, they would show the following:

1. On October 9, 2006, Plaintiffs filed their Seventh Request for Production of Documents. (See Ex. 1, attached hereto);

2. On November 8, 2006, Defendants Autauga County Board of Education, Larry Butler and Dene Cleveland filed a response objecting to the Plaintiffs' request. (See Ex. 2);

3. On December 8, 2006, Plaintiffs' counsel sent Defendants' counsel a letter clarifying their request and narrowing the scope of their request. (See Ex. 3);

4. On December 12, 2006, again Plaintiffs' counsel sent a letter clarifying their request and states how simple the procedure is to perform. (See Ex. 4);

5. On December 14, 2006, Plaintiffs' counsel sends a letter and sample of the computer index requested. (See Ex. 5);

6. On January 15, 2007, Defendants produced computer indexes for Defendants Cleveland and Butler. Also, it produces computer indexes for Mrs. McAlpine, Mr. Zeigler, Mrs. Garrett, and Mrs. Goodson who are all Autauga County Board of Education employees. The indexes produced ONLY shows the date the computer file was modified.

7. On January 30, 2007, Plaintiffs' counsel sends a letter to the Defendants counsel requesting they produce the computer index by date of origin as requested in their December 12, 2006 letter to defense counsel. (See Ex. 6);

8. On February 15, 2007, Plaintiffs' counsel met with Defense counsel. At that meeting, Plaintiffs' counsel again requested the status of their request to produce the computer indexes by date of origin for those persons listed in paragraph 6 above.

Defense counsel stated at that time they would not produce them because either they didn't know how they did not have the manpower.

9. Plaintiffs' have submitted the affidavit of a Scott Thomas who explains that the process is simple and can be done with three to four clicks of a mouse (See Ex. 7 – Affidavit of Scott Thomas)

WHEREFORE, Plaintiffs request an Order requiring the Defendant produce the information within 10 days. The discovery cut-off in this case is April 12, 2007, pursuant to the Court's Scheduling Order, dated January 24, 2006.

/s/Michael J. Crow  
MICHAEL J. CROW (CR039)  
Attorney for Plaintiffs

OF COUNSEL:

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/s/Robert D. Drummond  
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OF COUNSEL:

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 28<sup>th</sup> day of February 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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/s/Michael J. Crow  
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